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West shore R.R. co.

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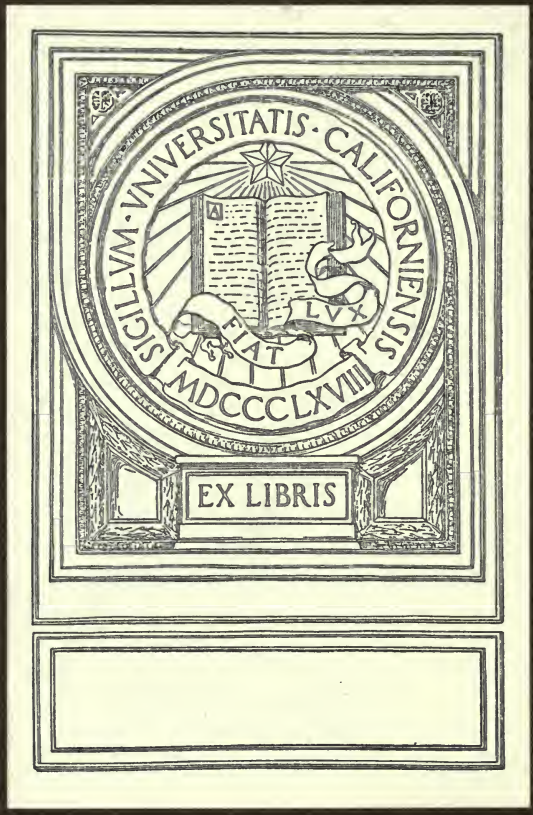
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WEST SHORE RAILROAD COMPANY

TO THE

NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY.

LEASE.

UNIV. OF CALIFORNIA

DATED DECEMBER 5TH, 1885.

[1885]

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UNIV OF
CALIFORNIA

Contract made this fifth day of December, A.D. 1885, between THE WEST SHORE RAILROAD COMPANY, hereinafter called the first party, and THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, hereinafter called the second party, for the use of the railroad of the first party.

WHEREAS, pursuant to a plan of agreement set forth in the certificate of incorporation of the first party, filed in the office of the Secretary of State of New York, to which reference is hereby made, the first party, under a sale in foreclosure proceedings, has become the owner of the herein-described property, railroad and franchises; and

WHEREAS, it has executed a mortgage to secure the payment of bonds to the amount of fifty millions of dollars and has issued its stock pursuant to the said plan or agreement of organization; and

WHEREAS, the second party has agreed to pay the principal and interest of the said bonds and mortgage as they become due;

NOW, THEREFORE, this contract WITNESSETH, that the said parties hereto, in consideration of the premises and of the several covenants and agreements hereinafter contained, to be kept and performed for the benefit of each respectively, do hereby mutually covenant, contract, promise and agree to and with each other as follows:

First.—The first party hereby demises and leases unto the second party, its successors and assigns, the said railroad of the party of the first part, to wit:

All and singular the main line of railroad of said West Shore Railroad Company, extending from Weehawken, in Hudson County, New Jersey, opposite the City of New York, through the counties of Hudson and Bergen in said State, to the division line between the States of New Jersey and New York, at or near Tappantown, in the County of Rockland, in the State of New York, and thence, in the State of New York, along or near the west shore of the Hudson River, via Haverstraw, West Point, Newburg, Kingston, Catskill, Athens and Coxsackie, to or near

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Schenectady, and thence, along or near the south shore of the Mohawk River, to Utica, and thence, via Syracuse, to Buffalo, as said main line is or may hereafter be located and constructed;

Also all and singular the branch line of railroad of said Railroad Company, extending from a point on said main line at Coeymans Junction, in the State of New York, to the City of Albany, in said State, as said branch line is or may hereafter be located and constructed, together with the right of said Railroad Company to construct or complete a loop line or branch from said City of Albany to any other point on said main line; also the branch to Athens, and the Guilderland Branch;

Also the right of said Railroad Company to construct a loop line or branches from points on said main line to the City of Rochester, in the State of New York;

Also all lands, tenements and hereditaments, lands under water and pre-emption rights thereto, water rights, rights of way and easements, now held or hereafter acquired by said Railroad Company for the purposes of said railroad and branches or any of them, and for the purposes of depots, stations, terminals or ferries in connection with said railroad and branches or any of them;

Also all letters patent, grants of land and of land under water and of water rights, and all leaseholds, leases, terms and parts of terms, rights under leases and under contracts, covenants and agreements, and all rights of trackage and terminal and ferry rights, privileges and franchises, and all licenses, permits and privileges of transit granted by the United States of America or by the State of New York or the State of New Jersey, or by any governmental or municipal authority, and all other rights, general and special, now held or hereafter acquired by said Railroad Company for the purposes of said railroad and branches, terminals and ferries or any of them;

Also all railways, ways, tracks, sidings, turnouts, bridges, viaducts, culverts and fences, wharves, docks and piers, depots, station-houses, ferry-houses, freight-houses, ware-

houses and elevators, round-houses, car-houses, storehouses, turn-tables, water-tanks, machine shops and repair-shops, and other buildings, structures, erections, fixtures, furniture and improvements of every kind, and all locomotives, engines, cars, and other rolling stock and railway equipment, and all ferry boats, steamboats, tugboats, floats, barges and other floating equipment, and all rails, ties, machinery, tools, implements fuel and materials, and all contracts and agreements for the purchase or lease of rolling stock, machinery, tools and equipment, and all other property, real, personal or mixed, now held or hereafter acquired by said Railroad Company for or in connection with the construction, maintenance or operation, reparation or replacement of said railroad and branches or any of them, or of said terminals, ferries or other properties, or as necessary or convenient for the uses or purposes thereof;

Also all rights, powers, privileges and franchises connected with or relating to said railroad and branches, terminals and ferries, or any of them, including the right to operate said railroad and branches, terminals and ferries; and all corporate franchises, rights, powers and privileges now held or hereafter acquired by said Railroad Company.

Also every other right, title, interest, property and thing which is necessary or convenient for the occupation, use and enjoyment of all or any of said railroads. terminals, ferries, leaseholds, and other properties, rights, privileges and franchises, or any part thereof, whether the same be now held or shall hereafter be acquired by the said Railroad Company, saving, excepting and reserving, however, from the operation of this contract, the branch railroad running from the junction with the railroad of the New York, Ontario and Western Railway Company at Middletown, in the County of Orange, and State of New York, to the point of junction with the main line of railroad of the said West Shore Railroad Company in the Town of Cornwall in said county.

And also all rights, privileges and franchises now held or which may hereafter be acquired by the party of the first part.

To HAVE AND TO HOLD the said demised railroad premises, equipments and appliances, rights, privileges and franchises, being all the property now held by the first party, unto the second party, its successors and assigns, from the date of these presents for and during the full term and period of four hundred and seventy-five years from January first, 1886, with the privilege of a further term of five hundred years.

PROVIDED always, and it is hereby expressly understood and agreed that nothing herein contained shall be deemed to affect in any manner the right of corporate existence of the first party, or such powers and franchises of which the exercise may from time to time be necessary to protect the interest of the stockholders and creditors thereof according to the true intent and meaning of these presents.

And the second party agrees to pay as rent therefor the full amount of interest at four per cent. per annum as it matures upon the bonds which have been or which may be issued, secured by the said mortgage of fifty millions of dollars upon the property of the first party, and which it is agreed shall be guaranteed by the second party.

And the second party further agrees that until the execution of the guarantee so agreed to be made, it will pay, as rent hereunder, an amount equal to the full amount of said interest upon said bonds, as it matures, which rent, it is agreed between the parties hereto, shall, as it so becomes due, be paid by the second party to the Union Trust Company of New York, to be held and used by said Trust Company as a special fund for the payment of such interest to the holders of said bonds.

And the second party shall also pay and discharge all the taxes and assessments lawfully imposed upon the said property, or upon the capital stock and bonds or other securities of the first party or upon said first party, and the second party also agrees to supply such sum of money as may be necessary to preserve the organization of the first party and to provide for the expense of exchange registration and transfer of any shares and bonds of said first party as part of the annual rental of the demised premises.

ITEM.—The said first party further covenants and agrees that it will from time to time and at any time hereafter, at the request of the second party, make, execute and deliver all such other and further, specific or general assignments and transfers, instruments and assurances in the law for the further, better or more perfectly assuring the railroad premises and property herein and hereby demised or conveyed by it to the second party according to the true intent and meaning of these presents, as by the second party or its counsel learned in the law shall or may be reasonably advised or required; but it is expressly covenanted and agreed that all the assignments and transfers, whether special or general, made or to be made by or under these presents, are and shall be for and only for the term of years for which the railroad of said first party is hereby demised to the second party.

ITEM.—The second party covenants and agrees that it will during the continuance of this contract do every act and thing that may by law be obligatory upon it or upon the said first party in respect to the operation, condition, maintenance and use of the said railroad premises and property hereby demised and every part thereof, including the keeping and rendition of all accounts and reports required by law, and that the said second party shall and will at all times indemnify and keep harmless the said first party from all costs, suits, expenses and damages that the first party may sustain or incur by reason of any default or failure or any alleged default or failure of the second party or its agents in the operation, management and use of the said railroad premises and property hereby demised or any part thereof, or in its or their omission to do any act required by law to be done or performed by said first party; but the said second party, its successors and assigns, may at any time during the continuance of the demised term change and alter the line, way and gauge of the demised railroad, and in so doing may discontinue any part of the present way or track of the said railroad and any of the machine shops or depots not required for the use of the line, and may also change the grade or grades of the said

road and alter or change the location of any of the tracks, water stations, buildings or erections appurtenant to or connected therewith, and may also, if it shall deem it necessary, purchase and acquire title to any additional real estate for the use of such road, or may exchange its lands or buildings for any other lands or buildings, or for other lands more convenient or necessary for its use and of equal value for the uses and purposes of said railroad, but all such alterations, changes, purchases or exchanges are to be made at the proper cost and charge of the second party; and the second party, its successors and assigns, may also from time to time during the continuance of the said term sell and dispose of such part of the demised premises and property as may not be necessary for the use of the said demised railroad and its branches; and the said first party shall, in case of any such sale or exchange and upon the demand in writing of the said second party at any time and from time to time, execute, in due form of law, good and sufficient deeds, but without covenants or warranty of title, of any part of said premises which said second party, its successors or assigns, may so agree to sell or exchange as aforesaid, to the purchaser or the party with whom the exchange shall be made, on such terms and conditions not inconsistent with the rights of the first party as the said second party may require, but all such deeds are to be prepared, executed and delivered at the cost and expense of the second party. All premises received in exchange are to be conveyed to the said first party and held by the parties hereto as if the same were now part of the premises hereby demised. And the said second party covenants and agrees to pay all taxes and assessments and charges thereon.

ITEM.—In case the second party shall at any time during said term omit to pay the rent, or fail to keep and perform the covenants and agreements hereinbefore mentioned and provided for, and shall continue in default in the premises for the period of ninety days, it shall be lawful for the first party, their successors and assigns, to enter into and upon the hereby demised premises, or such of them as may then be subsist-

ing in their plan, and forming the subjects of this lease, and remove all persons therefrom, and from thenceforth to have, hold, possess and enjoy the same as of their first and former estate therein, anything herein to the contrary notwithstanding.

ITEM.—The second party covenants and agrees that at the expiration or other determination of the term for which the said railroad is hereby demised, it will surrender the said railroad with a perfect track and all equipment depots, stations, shops, grounds, buildings and structures, and in as good condition and of as much value in all respects as when it received them, and that it will account for and pay over to the first party the consideration money received for any portion of the lands hereby demised, which, having been found not necessary for the use of the said demised railroad, may have been disposed of absolutely, except such as may have been exchanged for other lands of equal value, but no interest money is to accrue on such consideration money during the continuance of this contract; and on the termination of this contract the first party, its successors and assigns, shall pay to the second party, its successors and assigns, the amount expended out of its own means, but without interest, in the acquirement, otherwise than by exchange, of additional real estate for the use of the railroad hereby demised, provided the said first party shall elect to take the same, and so far as it shall not elect to take the same it shall, if the title has been taken in its own name, convey the same as the said second party may direct, but without covenants.

ITEM.—The first party covenants and agrees that the second party shall, upon payment in the manner herein provided, of the annual rent herein reserved, and keeping and performing the covenants and agreements herein agreed by it to be kept and performed on its part, have the uninterrupted possession, use, control and management of the said railroad and of the said real estate, premises and property herein de-

mised, with the right to ask, demand and receive for its own use and benefit all tolls and charges, fares and freights, which may or can be legally demanded and received for the transportation of persons and property upon and over the same or any part thereof, and all the income and revenue of the aforesaid estate and property of the first party, and all other its rights, privileges, franchises and benefits in its quiet and peaceable possession and enjoyment, without detriment, hindrance, interruption or molestation from the said first party or its successors or assigns, or from any of its present or future officers, directors or stockholders for and during the term of this contract.

ITEM.—The said first party covenants that it will, during the continuance of this contract, keep up and maintain its existence and organization as a body corporate in due form of law, and that it will, from time to time, as a body corporate, and at all times when thereto required by said second party, but at the expense of the latter, do and perform all such acts, matters and things consistent with the rights of said first party under this contract as shall be necessary in the opinion and judgment of the second party or its officers or counsel, to the due preservation and protection of all the estates, property, rights, franchises and interests herein demised to the second party, and to carry into full effect the true intent and meaning of this contract, and in default thereof that the same may be done by the said second party, its successors and assigns, or by its lawful agents, in the name and as the act of the said first party, but at the expense of the second party. In order, however, to avoid expense the said first party shall, so far as it is practicable and as shall be consistent with its rights, allow and employ the second party, its successors and assigns, to do and perform by its officers and agents for and in behalf of the first party all the business, acts and things necessary to be done and performed to maintain the organization and existence of the first party as a body corporate, and to preserve and protect the estate, property, rights, franchises and interests demised as aforesaid to the second party.

ITEM.—For the purpose of carrying this contract into effect the first party in consideration of the premises hereby irrevocably constitutes and appoints the second party its attorney for and during the term of this contract for the first party and in its name to do all acts, matters and things not inconsistent with the rights of the first party hereunder necessary to fulfill, enforce and carry out all and every of the provisions of this contract according to its true intent and meaning; and the said first party hereby constitutes and appoints the said second party its transfer agent with power by or through its officers and agents or its own proper transfer agent to do and perform, but at its own expense, all acts and things pertaining to transferring the title to the capital stock of the said first party and to such of its bonds as are commonly called registered and to keep all necessary books in connection therewith.

And the second party covenants and agrees to keep and maintain the railroad premises equipment and other property hereby demised and the appurtenances thereto belonging in good order and condition and to assume and pay all the expenses of maintaining and operating said railroad and the appurtenances thereto belonging, together with all taxes and assessments and expenses of organization, from and including the first day of January, 1886, during the full term of this contract.

ITEM.—Each and all of the preceding covenants, agreements and stipulations shall mutually bind and inure to the benefit of the first and second parties, their and each of their successors and assigns.

In witness whereof, each of said parties has caused its corporate seal to be hereunto affixed and attested by its Secretary, and this instrument to be signed by its President or one of its Vice-Presidents, the day and year first herein written.

West Shore Railroad Company,

[seal.] By J. Hood Wright,
President.

Attest:

F. E. Worcester,
Secretary.

New York Central and Hudson River Railroad Company,

[seal.] By Chauncey M. Depew,
President.

Attest:

E. D. Worcester,
Secretary.

STATE OF NEW YORK,
City and County of Albany, } ss. :

On the fifth day of December, in the year one thousand eight hundred and eighty-five, before me, the undersigned, a Notary Public of the State of New York, in and for the City and County of Albany, personally came Franklin E. Worcester, known to me to be the Secretary of the West Shore Railroad Company, the corporation described in and which executed the foregoing instrument as party of the first part thereto, who, being by me duly sworn, did depose and say: that he resides in the City of Brooklyn; that he is the Secretary of the said West Shore Railroad Company, and knows the corporate seal thereof; that the seal affixed to the foregoing instrument is the corporate seal of the said company, and was thereto affixed by order of the Board of Directors of the said company, and as the voluntary act and deed of said company, and that he signed his name thereto by the like order as secretary of the said company.

And the said deponent further said, that he is acquainted with J. Hood Wright, and knows him to be the president of the said company; that the signature of the said J. Hood Wright, subscribed to the foregoing instrument is in the genuine handwriting of the said J. Hood Wright, and was thereto subscribed by the like order of the said Board of Directors, and in the presence of said deponent.

In witness whereof, I have hereunto set my hand and official seal, this fifth day of December, A. D. 1885.

JNO. L. VAN VALKENBURGH,
Notary Public,
Albany Co.

[SEAL.]

STATE OF NEW YORK,
City and County of Albany, } ss.:

On the fifth day of December, in the year one thousand eight hundred and eighty-five, before me, the undersigned, a notary public of the State of New York in and for the City and County of Albany, personally came Edwin D. Worcester, known to me to be the Secretary of the New York Central and Hudson River Railroad Company, the corporation described in and which executed the foregoing instrument, as party of the first part thereto, who, being by me duly sworn, did depose and say: that he resides in the City of New York; that he is the Secretary of the said New York Central and Hudson River Railroad Company, and knows the corporate seal thereof; that the seal affixed to the foregoing agreement is the corporate seal of the said company, and was thereto affixed by order of the Board of Directors of the said company, and that he signed his name thereto by the like order, as Secretary of the said company.

And the said deponent further said, that he is acquainted with Chauncey M. Depew, and knows him to be the President of the said company; that the signature of the said Chauncey M. Depew, subscribed to the foregoing agreement, is in the genuine handwriting of the said Chauncey M. Depew, and was thereto subscribed by the like order of the said Board of Directors, and in the presence of said deponent.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, this fifth day of December, A. D. 1885.

JNO. L. VAN VALKENBURGH,
[SEAL.] *Notary Public,*
Albany Co.

STATE OF NEW YORK, }
City and County of New York, } ss. :

On the day of December, in the year one thousand eight hundred and eighty-five, before me, the undersigned, a Commissioner of Deeds of the State of New Jersey in New York, personally came , known to me to be the Secretary of the West Shore Railroad Company, the corporation described in and which executed the foregoing instrument as party of the first part thereto, who, being by me duly sworn, did depose and say; that he resides in the City of New York; that he is the Secretary of the said West Shore Railroad Company, and knows the corporate seal thereof; that the seal affixed to the foregoing instrument is the corporate seal of the said company, and was thereto affixed by order of the Board of Directors of the said company, and as the voluntary act and deed of said company, and that he signed his name thereto by the like order as secretary of the said company.

And the said deponent further said that he is acquainted with , and knows him to be the president of the said company; that the signature of the said subscribed to the foregoing instrument is in the genuine handwriting of the said , and was thereto subscribed by the like order of the said Board of Directors, and in the presence of said deponent.

In witness whereof, I have hereunto set my hand and official seal, this day of December, A. D. 1885.

[SEAL.] Commissioner of Deeds for the State of New Jersey in New York.

STATE OF NEW YORK,
City and County of New York, } ss.:

On the day of December, in the year one thousand eight hundred and eighty-five, before me, the undersigned, a notary public of the State of New York in and for the City and County of New York, personally came Edwin D. Worcester, known to me to be the Secretary of the New York Central and Hudson River Railroad Company, the corporation described in and which executed the foregoing instrument, as party of the first part thereto, who, being by me duly sworn, did depose and say: that he resides in the City of New York; that he is the Secretary of the said New York Central and Hudson River Railroad Company, and knows the corporate seal thereof; that the seal affixed to the foregoing instrument is the corporate seal of the said company, and was thereto affixed by order of the Board of Directors of the said company, and that he signed his name thereto by the like order, as Secretary of the said company.

And the said deponent further said, that he is acquainted with Chauncey M. Depew, and knows him to be the President of the said company; that the signature of the said Chauncey M. Depew, subscribed to the foregoing instrument, is in the genuine handwriting of the said Chauncey M. Depew, and was thereto subscribed by the like order of the said Board of Directors, and in the presence of said deponent.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, this day of December, A. D. 1885.

Commissioner of Deeds for the State of New Jersey in New York.

[SEAL.]

STATE OF NEW YORK, }
City and County of New York, } *ss.:*

I, PATRICK KEENAN, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, do hereby certify, that
whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof and acknowledgment, a Notary Public in and for the City and County of New York, dwelling in the said city, commissioned and sworn, and duly authorized to take the same. And further, that I am well acquainted with the handwriting of such notary, and verily believe that the signature to the said certificate of proof or acknowledgment is genuine. I further certify that said instrument is executed and acknowledged according to the law of the State of New York.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the
day of December, 1885.

Clerk.

[SEAL.]

STATE OF NEW YORK,
City and County of New York, } *ss.:*

I, PATRICK KEENAN, Clerk of the City and County of New York, and also Clerk of the Supreme Court for the said City and County, the same being a Court of Record, do hereby certify that
whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument and thereon written, was, at the time of taking such proof and acknowledgment, a Notary Public, in and for said county, duly commissioned and sworn and authorized by the laws of said State to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in said State. And further, that I am well acquainted with the handwriting of said Notary Public, and verily believe that the signature to said certificate of proof or acknowledgment is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, the
day of December, 1885.

Clerk.

[SEAL.]

Pamphlet
Binder
Gaylord Bros., Inc.
Stockton, Calif.
T. M. Reg. U. S. Pat. Off.

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